



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/076,539

02/19/2002

Michio Okamura

1086.1155

1660

21171 7590 07/21/2009
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

GRAHAM, CLEMENT B

ART UNIT

PAPER NUMBER

3696

MAIL DATE

DELIVERY MODE

07/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/076,539	Applicant(s) OKAMURA, MICHIO	
	Examiner Clement B. Graham	Art Unit 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/20/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,8,9,11,13,17-19,21,22,26 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,8,9,11,13,17-19,21,22,26 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/20/09 has been entered.
2. Claims 1, 4, 8-9, 13, 17-19, 21-22, 26, 32 remained pending.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
Claim 25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, Claim 1, 8, 17-19, 26, 32, states “wherein said payment date/time has been set in a manner such that as said payment money amount discretely determined is larger “, it is unclear as to how this payment money amount discretely determined is larger. ...”. For further examination, the examiner interprets the limitation in light of this 112, second rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 8-9, 13, 17-19, 21-22, 26, 32, are rejected under 35 U.S.C. 103(a) as being unpatentable over et al (Hereinafter O'Leary U.S Patent: 6, 609, 113) in view Weeler U.S Pub: 2002/0026575.

As per claim 1, O'Leary discloses a n electronic money processing method for a bank server which is connected to a terminal apparatus of the user via the Internet and connected via a mobile phone network to an electronic money card having an interface that can be connected to said terminal apparatus and a mobile phone function, comprising:
a payment accepting step wherein payment application in which a payment money amount is specified by the user on said terminal apparatus and wherein said payment date/time has been set in a manner such that as said payment money amount discretely determined is larger, a time lag between said payment application date/time/and a payment execution date/time is increased and is received from said terminal apparatus via the internet (see column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

O'Leary fail to explicitly teach a payment executing step wherein when said payment date/time comes, a telephone call is made to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed.

However Weeler discloses a third business application implementing the two-party ABDS system of FIG. 2 is illustrated in FIG. 14. In this example, an account holder 1402 comprising a person possesses a device in the form of a cell phone. The cell phone securely protects therein a private key of a public-private key pair. The cell phone includes a display screen and a number pad. Further, the cell phone has been suitably equipped for wireless voice and data communications over a wireless communications network. The cell phone is associated with a bill payment account (which may include one or more checking accounts, credit card accounts, etc.) maintained with an account authority represented by a bill payment service, which is authorized to pay bills to third parties on behalf of the account holder and which has an automated call center equipped to received wireless voice and data communications over network (note abstract and see para 0205 and 0211 and 0217).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was known to modify the teachings of O'Leary to include a payment executing step wherein when said payment date/time comes, a telephone call is made to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed taught by Weeler in order to authenticate an entity by a receiving party with respect to an electronic communication that is received by the receiving party and that includes both a unique identifier associated with an account maintained by the receiving party.

As per claim 4, O'Leary discloses a wherein in said payment accepting step, prior to accepting the payment, predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is received from said terminal apparatus and collated with a customer database, and when they coincide as a result of said collation, a next inputting process is authenticated (see see column 16 lines 1-7 and lines 36-55 and column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

As per claim 8, O'Leary discloses a electronic money processing method for a bank server which is connected to a terminal apparatus of the user via the Internet and connected via a mobile phone network to an electronic money card having an interface that can be connected to said terminal apparatus and a mobile phone function, comprising:
a payment accepting step wherein payment application in which a payment money amount has been designated is received from said terminal apparatus via the internet a payment executing step wherein said accepted payment money amount is discretely determined at a payment accepting unit provided in said bank server and a payment date/time is set in a manner such that as said payment money amount is larger a time lag between a payment application date/time at which said payment application has been received and said payment date/time is increased in accordance with said accepted payment money amount (see column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

O'Leary fail to explicitly teach when said payment date/time comes, a telephone call is made to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed and payment of electronic money is executed.

However Weeler discloses a third business application implementing the two-party ABDS system of FIG. 2 is illustrated in FIG. 14. In this example, an account holder 1402 comprising a person possesses a device in the form of a cell phone. The cell phone securely protects therein a private key of a public-private key pair. The cell phone includes a display screen and a number pad. Further, the cell phone has been suitably equipped for wireless voice and data communications over a wireless communications network. The cell phone is associated with a bill payment account (which may include one or more checking accounts, credit card accounts, etc.) maintained with an account authority represented by a bill payment service, which is authorized to pay bills to third parties on behalf of the account holder and which has an automated call center equipped to received wireless voice and data communications over network (note abstract and see para 0205 and 0211 and 0217).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was known to modify the teachings of O'Leary to include when said payment date/time comes, a telephone call is made to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed and payment of electronic money is executed taught by Weeler in order to authenticate an entity by a receiving party with respect to an electronic communication that is received by the receiving party and that includes both a unique identifier associated with an account maintained by the receiving party.

As per claim 9, O'Leary discloses further comprising the step of notifying said terminal apparatus of said set payment date/time (see column 16 lines 1-7 and lines 36-55 and column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

As per claim 11, O'Leary discloses wherein in said payment accepting step, prior to accepting the payment, predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is received from said terminal apparatus and collated with a customer database, and when they coincide as a result of said collation, a next inputting process is authenticated (see column 16 lines 1-7 and lines 36-55 and column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

As per claim 13, O'Leary discloses wherein in said payment executing step, if the telephone talk connection is not established in the telephone call to said electronic money card,

the execution of the payment is stopped and the payment application is cancelled (see column 16 lines 1-7 and lines 36-55 and column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

As per claim 17, O'Leary discloses a computer-readable recording medium in which a program for processing electronic money has been stored, wherein said program allows a computer constructing a bank server which is connected to a terminal apparatus of the user via the Internet and connected via a mobile phone network to an electronic money card having an interface that can be connected to said terminal apparatus and a mobile phone function to execute:

a payment accepting step wherein payment application in which a payment money amount specified by the user on said terminal apparatus and a payment date/time have been designated is received from said terminal apparatus wherein said payment date/time has been set in a manner such that as said payment money amount is larger, a time lag between said payment application date/time and a payment execution date/time is increased and is received from said terminal apparatus via the internet (see column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

O'Leary fail to explicitly teach and a payment executing step wherein when said payment date/time comes, a telephone call is made to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed.

However Weeler discloses a third business application implementing the two-party ABDS system of FIG. 2 is illustrated in FIG. 14. In this example, an account holder 1402 comprising a person possesses a device in the form of a cell phone. The cell phone securely protects therein a private key of a public-private key pair. The cell phone includes a display screen and a number pad. Further, the cell phone has been suitably equipped for wireless voice and data communications over a wireless communications network. The cell phone is associated with a bill payment account (which may include one or more checking accounts, credit card accounts, etc.) maintained with an account authority represented by a bill payment service, which is authorized to pay bills to third parties on behalf of the account holder and which has an

automated call center equipped to received wireless voice and data communications over network (note abstract and see para 0205 and 0211 and 0217).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was known to modify the teachings of O'Leary to include and a payment executing step wherein when said payment date/time comes, a telephone call is made to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed taught by Wheeler in order to authenticate an entity by a receiving party with respect to an electronic communication that is received by the receiving party and that includes both a unique identifier associated with an account maintained by the receiving party.

As per claim 18, O'Leary discloses a computer-readable recording medium in which a program for processing electronic money has been stored, wherein said program allows a computer constructing a bank server which is connected to a terminal apparatus of the user via the Internet and connected via a mobile phone network to an electronic money card having an interface that can be connected to said terminal apparatus and a mobile phone function to execute a payment accepting step wherein payment application in which a payment money amount has been designated is received from said terminal apparatus via the internet (see column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15) a payment executing step wherein said accepted payment money amount is discretely determined at a payment accepting unit provided in said bank server and a payment date/time is in a manner such that as said determined payment money amount is larger, a time lag between a payment application date/time at which said payment application has been received and said payment date/time is increased in accordance with said accepted payment money amount (see column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

O'Leary fail to explicitly teach when said payment date/time comes, a telephone call is made to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed.

However Wheeler discloses a third business application implementing the two-party ABDS system of FIG. 2 is illustrated in FIG. 14. In this example, an account holder 1402 comprising a person possesses a device in the form of a cell phone. The cell phone securely protects therein a

Art Unit: 3696

private key of a public-private key pair. The cell phone includes a display screen and a number pad. Further, the cell phone has been suitably equipped for wireless voice and data communications over a wireless communications network. The cell phone is associated with a bill payment account (which may include one or more checking accounts, credit card accounts, etc.) maintained with an account authority represented by a bill payment service, which is authorized to pay bills to third parties on behalf of the account holder and which has an automated call center equipped to received wireless voice and data communications over network (note abstract and see para 0205 and 0211 and 0217).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was known to modify the teachings of O'Leary to include when said payment date/time comes, a telephone call is made to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed taught by Weeler in order to authenticate an entity by a receiving party with respect to an electronic communication that is received by the receiving party and that includes both a unique identifier associated with an account maintained by the receiving party.

As per claim 19, O'Leary discloses an electronic money processing method for a terminal apparatus in which an electronic money card having an interface and a mobile phone function is connected to a card slot and which is connected via the Internet to a bank server that is connected to said electronic money card via a mobile phone network, comprising:
an authentication obtaining step wherein predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is transmitted from said terminal apparatus to said bank server and authentication is obtained (see column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15) a payment applying step wherein said bank server is notified of payment application in which a payment money amount is specified by the user on said terminal apparatus and a payment date/time which has been set -in a manner such that as said payment money amount is larger, a time lag between a payment application date/time at which said payment application has been received and said payment date/time is increased and is received from said terminal apparatus via the internet in accordance with said payment money amount have been designated

(see column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

O'Leary fail to explicitly teach wherein when said payment date/time comes, a telephone call is made from said bank server to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed.

However Weeler discloses a third business application implementing the two-party ABDS system of FIG. 2 is illustrated in FIG. 14. In this example, an account holder 1402 comprising a person possesses a device in the form of a cell phone. The cell phone securely protects therein a private key of a public-private key pair. The cell phone includes a display screen and a number pad. Further, the cell phone has been suitably equipped for wireless voice and data communications over a wireless communications network. The cell phone is associated with a bill payment account (which may include one or more checking accounts, credit card accounts, etc.) maintained with an account authority represented by a bill payment service, which is authorized to pay bills to third parties on behalf of the account holder and which has an automated call center equipped to received wireless voice and data communications over network (note abstract and see para 0205 and 0211 and 0217).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was known to modify the teachings of O'Leary to include wherein when said payment date/time comes, a telephone call is made from said bank server to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed taught by Weeler in order to authenticate an entity by a receiving party with respect to an electronic communication that is received by the receiving party and that includes both a unique identifier associated with an account maintained by the receiving party.

As per claim 21, O'Leary discloses wherein in said payment applying step, as said payment money amount is larger, a time lag between said payment application date/time and said payment date/time is increased (see column 16 lines 1-7 and lines 36-55 and column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

As per claim 22, O'Leary discloses wherein in said authentication obtaining step, said user authentication information includes a name, an address, and a personal identification number inputted by the user in addition to the account number and the telephone number obtained from

said electronic money card (see column 16 lines 1-7 and lines 36-55 and column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

As per claim 26, O'Leary discloses a computer-readable recording medium in which a program for processing electronic money has been stored, wherein said program allows a computer constructing a terminal apparatus in which an electronic money card having an interface and a mobile phone function is connected to a card slot and which is connected via the Internet to a bank server that is connected to said electronic money card via a mobile phone network to execute:

an authentication obtaining step wherein predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is transmitted from said terminal apparatus to said bank server and authentication is obtained (see column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15) a payment applying step wherein said bank server is notified of payment application in which a payment money amount designated by the user and a payment date/time which has been set in a manner such that as said discretely determined payment money amount is larger, a time lag between a payment application date/time at which said payment application has been received and said payment date/time is increased (see column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

O'Leary fail to explicitly teach and wherein when said payment date/time comes, a telephone call is made from said bank server to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed, and the bank server executes payment of the electronic money is executed.

However Weeler discloses a third business application implementing the two-party ABDS system of FIG. 2 is illustrated in FIG. 14. In this example, an account holder 1402 comprising a person possesses a device in the form of a cell phone. The cell phone securely protects therein a private key of a public-private key pair. The cell phone includes a display screen and a number pad. Further, the cell phone has been suitably equipped for wireless voice and data communications over a wireless communications network. The cell phone is associated with a bill payment account (which may include one or more checking accounts, credit card accounts, etc.) maintained with an account authority represented by a bill payment service, which is

Art Unit: 3696

authorized to pay bills to third parties on behalf of the account holder and which has an automated call center equipped to received wireless voice and data communications over network (note abstract and see para 0205 and 0211 and 0217).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was known to modify the teachings of O'Leary to include and wherein when said payment date/time comes, a telephone call is made from said bank server to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed, and the bank server executes payment of the electronic money is executed taught by Wheeler in order to authenticate an entity by a receiving party with respect to an electronic communication that is received by the receiving party and that includes both a unique identifier associated with an account maintained by the receiving party.

As per claim 32, O'Leary discloses a method, comprising:
accepting a payment request sent from a terminal inserted with a card device over a data network by a user having an amount and a desired payment execution time, analyzing the amount and adding a wait time responsive to a size of the amount (see column 10 lines 14-35 and column 11 lines 4-52 and column 26 lines 60-67 and column 27 lines 1-15).

O'Leary fail to explicitly teach and initiating a telephone call after the wait time has elapsed and requiring connection of the telephone call to a mobile device to execute the payment.

However Wheeler discloses a third business application implementing the two-party ABDS system of FIG. 2 is illustrated in FIG. 14. In this example, an account holder 1402 comprising a person possesses a device in the form of a cell phone. The cell phone securely protects therein a private key of a public-private key pair. The cell phone includes a display screen and a number pad. Further, the cell phone has been suitably equipped for wireless voice and data communications over a wireless communications network. The cell phone is associated with a bill payment account (which may include one or more checking accounts, credit card accounts, etc.) maintained with an account authority represented by a bill payment service, which is authorized to pay bills to third parties on behalf of the account holder and which has an automated call center equipped to received wireless voice and data communications over network (note abstract and see para 0205 and 0211 and 0217).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was known to modify the teachings of O'Leary to include initiating a telephone call after the wait time has elapsed and requiring connection of the telephone call to a mobile device to execute the payment taught by Weeler in order to authenticate an entity by a receiving party with respect to an electronic communication that is received by the receiving party and that includes both a unique identifier associated with an account maintained by the receiving party.

Conclusion

RESPONSE TO ARGUMENTS

6. Applicant's arguments filed 4/20/09 has been fully considered but they are moot in view of new grounds of rejections.

7. Applicant's claims 1, 8, 17-19, 26, 32, states "wherein when said payment date/time comes, a telephone call is made to said electronic money card, via said mobile phone network establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed"

However the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

**>USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d

1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted “in view of the specification” without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (“During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.”).<

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”). Any special meaning assigned to a term “must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention.” *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B. Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3696

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CG

July 14, 2009

/Frantzy Poinvil/

Primary Examiner, Art Unit 3696